IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.R.No.5504 of 2004
Date of Decision : November 14, 2006.

Yash Paul ..... Petitioner

Vs.

Jagjit Singh and others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.Amit Rawal, Advocate
for the petitioner.

Mr.Puneet Jindal, Advocate
for the respondents.

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P.S.Patwalia, J. (Oral) :

The present revision petition has been filed challenging order dated 6.10.2004 vide which the learned Civil Judge (Junior Division), Ludhiana dismissed an application under Order 1 Rule 10 CPC filed by the petitioner.

Respondent Jagjit Singh had filed a suit against Manju Rani and her husband Satish Verma for a declaration that agreement to sell dated 17.2.2003 allegedly entered into by the plaintiff and the defendants stood cancelled and revoked on their default to pay the entire sale consideration. It is in that suit that petitioner Yash Paul filed an application under Order 1 Rule 10 for being impleaded as a party. It is his case that out of the total land of 36 kanals 11 marlas, subject matter of controversy in the suit and covered by agreement to sell dated 17.2.2003, the plaintiff had subsequently sold 3 kanals 5 marlas of land to the applicant vide two separate sale deeds

dated 5.5.2003 and 13.8.2003. Thus the applicant had contended that if the suit was to be decided one way or the other, his right would be effected. He therefore claimed to be a necessary party in the suit. In reply to the application, the plaintiff admitted that he had indeed sold the land to the applicant. He also stated that he does not claim any relief against the applicant. He further stated that he had already executed a sale deed making him owner of the property. Apart from this it was the applicant's own case that possession of the property had been handed over to him. Plaintiff had conceded the right of the applicant. It is recorded by the trial court in the following words :-

> *"Plaintiff counsel has also categorically given statement that he does not claim any relief against Yashpaul in favour of whom the plaintiff already executed sale deed of total land measuring 3K5M making him owner of the same which is not challenged in this suit. Plaintiff was specifically asked to concede that result of this suit shall not be having any effect on the right of Yashpaul over 3K5M purchased by him. Plaintiff concedes the same. In the light of this the plaintiff has undertaken that result of this suit shall not effect the right of Yaspaul in 3K5M purchased by him and that Yashpaul has become owner in possession of his 3K5M fully sold to him by the plaintiff. Hence this application is ordered to be dismissed keeping the plaintiff bound that result of this suit shall not affect the title of Yashpaul in the property measuring 3K5M purchased by him from plaintiff and referred in his application. Defendant is already confirming the claim of*

Yashpaul that plaintiff has sold 3K5M to Yashpaul."

It is on the aforesaid basis that trial court came to the conclusion that the applicant's rights were fully protected and were not going to be effected by the decision of the suit and hence the applicant was neither necessary nor a proper party. It may also be noted here that subsequently the plaintiff had filed an application for amendment of the plaint to exclude the land sold to the petitioner from the relief claimed in the plaint. Even said amendment application has since been allowed by the trial court.

In view of the aforesaid I do not find any error in the view taken by the trial court in dismissing the application filed by the applicant. The plaintiff has fairly conceded the right of the applicant. He has subsequently also amended his plaint to exclude the said land. Thus the petitioner is neither necessary nor proper party in the suit.

The present revision petition is therefore dismissed.

November 14, 2006 (P.S.Patwalia)
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